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Chapter 57 of the Laws of 2008 included amendments to the Tax Law that revised the definition of vendor for New York State and local sales tax purposes. The legislation amended section 1101(b)(8) of the Tax Law to provide that sellers of t

Question

Chapter 57 of the Laws of 2008 included amendments to the Tax Law that revised the definition of vendor for New York State and local sales tax purposes. The legislation amended section 1101(b)(8) of the Tax Law to provide that sellers of taxable tangible personal property or services are presumed to be sales tax vendors that are required to register for sales tax purposes when they meet certain conditions. What are the conditions that cause sellers to fall under this presumption of being a sales tax vendor?

Answer

A seller of taxable tangible personal property or services is presumed to be soliciting business through an independent contractor or other representative and is a vendor required to be registered for sales tax purposes, if both of the following conditions are met:

- The seller enters into agreements with New York State residents (resident representatives), under which, for a commission or other consideration, the resident representative directly or indirectly refers potential customers to the seller, whether by link on an Internet Web site or otherwise.
- The cumulative gross receipts from sales by the seller to customers in New York State as a result of referrals to the seller by all of the seller's resident representatives under the agreements total more than \$10,000 during the preceding four quarterly sales tax periods. (Sales tax quarterly periods end on the last day of February, May, August and November).

For purposes of this presumption, a seller is also considered to have met the condition of having an agreement with a resident representative where the seller enters into an agreement with a third party under which the third party, in turn, enters into an agreement with the resident representative to act as the seller's representative.

A seller may rebut the presumption that it is soliciting sales in New York State through resident representatives. For example, the Tax Department will consider the presumption rebutted where the seller is able to establish that the only activity of its resident representatives in New York State on behalf of the

seller is a link provided on the representatives' Web sites to the seller's Web site and none of the resident representatives engage in any solicitation activity in the state targeted at potential New York State customers on behalf of the seller.

For more detailed information please see TSB-M-08(3)S, New Presumption Applicable to Definition of Sales Tax Vendor and TSB-M-08(3.1)S, Additional Information on How Sellers May Rebut the New Presumption Applicable to the Definition of Sales Tax Vendor as Described in TSB-M-08(3)S.

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- How does one qualify as a show vendor?

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Assume an Internet based retailer (seller) is presumed to be a sales tax vendor under section 1101(b)(8)(iv) of the Tax Law because the seller has entered into agreements with resident representatives, under which the resident representative

Question

Assume an Internet based retailer (seller) is presumed to be a sales tax vendor under section 1101(b)(8)(iv) of the Tax Law because the seller has entered into agreements with resident representatives, under which the resident representatives refer potential customers to the seller, and the cumulative gross receipts from sales to customers in New York under these agreements exceed \$10,000. In addition, the seller is not able to rebut the presumption as described in TSB-M-08(3)S and TSB-M-08(3.1)S. Based on these facts, are the resident representatives required to register as a vendor for sales tax purposes, and do they have any other responsibility for New York State sales tax purposes?

Answer

No. Based on these activities, the resident representatives are not sales tax vendors and therefore, are not required to register for sales tax purposes. In addition, they have no other responsibilities for New York State sales tax purposes. For example, the resident representatives are not required to track sales, or make any sales tax related reports on behalf of the seller.

How well did this answer your question?

☐ 100% ☐ 75% ☐ 50% ☐ 25% ☐ 0%

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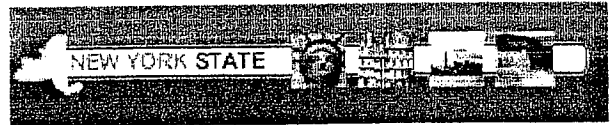
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- Assume the same facts as in FAQ #2422 except that, rather than directly entering into agreements with New York residents, the seller enters into an agreement with an affiliate network service provider whereby the affiliate network service p
- How do businesses, including sellers who are presumed to be vendors under Section 1101(b)(8)(iv) of the Tax Law, register for sales tax purposes?
- Chapter 57 of the Laws of 2008 included amendments to the Tax Law that revised the definition of vendor for New York State and local sales tax purposes. The legislation amended section 1101(b)(8) of the Tax Law to provide that sellers of t

Previously Viewed Answers

- Assume the same facts as in FAQ #2422 except that, rather than directly entering into agreements with New York residents, the seller enters into an

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Assume the same facts as in FAQ #2422 except that, rather than directly entering into agreements with New York residents, the seller enters into an agreement with an affiliate network service provider whereby the affiliate network service p

Question

Assume the same facts as in FAQ #2422 except that, rather than directly entering into agreements with New York residents, the seller enters into an agreement with an affiliate network service provider whereby the affiliate network service provider contracts with resident representatives on behalf of the seller to refer potential customers to the seller. Based on these facts, is the affiliate network service provider a sales tax vendor that is required to register for sales tax purposes? Does it have any other the responsibilities for New York State sales tax purposes?

Answer

Based on these activities, the affiliate network service provider is not a sales tax vendor and is therefore not required to register for sales tax purposes, even if the service provider has nexus with New York State. In addition, the affiliate network service provider has no other responsibilities of any kind associated with being a sales tax vendor, including tracking of sales or making sales tax related reports on behalf of the seller.

How well did this answer your question?

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- An affiliate network service provider enters into an agreement with an online merchant. The agreement provides that the affiliate network service provider will recruit New York State resident representatives to solicit taxable sales on beh
- How do businesses, including sellers who are presumed to be vendors under Section 1101(b)(8)(iv) of the Tax Law, register for sales tax purposes?

Previously Viewed Answers

- How do businesses, including sellers who are presumed to be vendors under

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How do businesses, including sellers who are presumed to be vendors under Section 1101(b)(8)(iv) of the Tax Law, register for sales tax purposes?

Question

How do businesses, including sellers who are presumed to be vendors under Section 1101(b)(8)(iv) of the Tax Law, register for sales tax purposes?

Answer

A business may register as a sales tax vendor by visiting the Tax Department's Online Tax Center at www.nystax.gov. A business may also register by using Form DTF-17, Application to Register for a Sales Tax Certificate of Authority. Form DTF-17 is available in a paper version and is also available on the Tax Department's Web site in both a downloadable version or as a fill-in form.

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- An affiliate network service provider enters into an agreement with an online merchant. The agreement provides that the affiliate network service provider will recruit New York State resident representatives to solicit taxable sales on beh
- How quickly can I register my business for sales tax?

Previously Viewed Answers

- Chapter 57 of the Laws of 2008 included amendments to the Tax Law that revised the definition of vendor for New York State and local sales tax purposes. The legislation amended section 1101(b)(8) of the Tax Law to provide that sellers of t

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An affiliate network service provider enters into an agreement with an online merchant. The agreement provides that the affiliate network service provider will recruit New York State resident representatives to solicit taxable sales on beh

Question

An affiliate network service provider enters into an agreement with an online merchant. The agreement provides that the affiliate network service provider will recruit New York State resident representatives to solicit taxable sales on behalf of the online merchant. The agreement also provides that the affiliate network service provider will account for those sales that result from the solicitation activities of the resident representatives. Based on these facts, does the agreement between the affiliate network service provider and the online merchant impose any responsibility on the affiliate network service provider to substantiate to the Tax Department the resident status any representatives recruited by the affiliate network service provider?

Answer

No. Based on these activities, the affiliate network service provider does not have any responsibilities for New York State sales tax purposes, including the substantiation of the resident status of representatives.

How well did this answer your question?

☐ 100% ☐ 75% ☐ 50% ☐ 25% ☐ 0%

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- Is the sale of data or information delivered to customers in New York State, e.g., lists of e-mail addresses and customer contact information, subject to sales tax?

Previously Viewed Answers

- Assume an Internet based retailer (seller) is presumed to be a sales tax vendor under section 1101(b)(8)(iv) of the Tax Law because the seller has

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Email Answer

Is the sale of data or information delivered to customers in New York State, e.g., lists of e-mail addresses and customer contact information, subject to sales tax?

Question

Is the sale of data or information delivered to customers in New York State, e.g., lists of e-mail addresses and customer contact information, subject to sales tax?

Answer

Yes. Section 1105(c)(1) of the Tax Law imposes sales tax on the sale of certain information services, including credit reports, tax or stock advisories, analysis reports, product and marketing surveys, mailing lists, including lists of e-mail addresses, customer lists, and other customer contact information.

(Note: The sales tax imposed on receipts from the service of furnishing information has been in effect since 1965, and was not part of the amendments made by Chapter 57 of the Laws of 2008.)

How well did this answer your question?

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- Chapter 57 of the Laws of 2008 included amendments to the Tax Law that revised the definition of vendor for New York State and local sales tax purposes. The legislation amended section 1101(b)(8) of the Tax Law to provide that sellers of t
- What is the additional tax (mansion tax) that is imposed on residential real property that is located in the State of New York?

Previously Viewed Answers

- An affiliate network service provider enters into an agreement with an online merchant. The agreement provides that the affiliate network service provider will recruit New York State resident representatives to solicit taxable sales on beh
- Assume an Internet based retailer (seller) is presumed to be a sales tax vendor under section 1101(b)(8)(iv) of the Tax Law because the seller has entered into agreements with resident representatives, under which the